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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,659	03/05/2002	John F. Stoffer	1657-J	7237

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EXAMINER

CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,659

Applicant(s)

STOFFER, JOHN F.

Examiner

Chapman E Jeanette

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34, 36-41, 44-50 and 52 is/are rejected.
- 7) ☒ Claim(s) 35, 42-43 and 51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

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The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter of claims 36-38 and 41-42 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18, 26-34 rejected under 35 U.S.C. 102(b) as being anticipated by Nelson (5613342).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-34, 36-41, 44, 46-50, 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson in view of Raggio and Morgan et al.

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Nelson '342 discloses a method of manufacturing a countertop assembly comprising;

- providing a horizontal deck 16 having upper and lower surfaces and a vertical edge 22;
- providing a generally concave/convex elongated polymer molded strip 14; see figure 3; the strip includes an exposed surface ; the strip includes an inner surface and the face of the strip is attached to the vertical edge of the deck at the inner surface;
- the strip is connected to the vertical surface 22 by a tongue and groove joint 24 and 40;
- fixing the strip to the vertical edge 22;
- including a planar protective covering 18 which is a plastic laminate top skin;
- the lower surface of the deck is vertically superimposed on an elongated build up member 58 having an elongated vertical edge which is aligned with the decks vertical edge;
- including the molding 14 which is superimposed over both the vertical edge of the deck and the vertical edge of the build up member 58; see figure 1;
- including the planar protective covering 18 which has an elongated front vertical edge which is aligned with the elongated front vertical edge of the deck 16 and the build up member 58

It is obvious that the purpose of the strip is to provide protection for the edge of the table while also providing a decorative finished appearance to the countertop/furniture. One can safely assume that the exterior surface of Nelson particularly figure 3 includes a pattern; the two secondary references show such a pattern; Raggio discloses a pattern with a plurality of continuous ridges and/or at least one continuous recess. It would have been obvious to one of ordinary skill in the art to include the trim/molding with a pattern to provide a decorative effect leasing and for aesthetic appeal.

The direction of the ridges and recesses has been considered a matter of design choice; one of ordinary skill in the art would have appreciated the direction that is commensurate with the intended purpose and function of the countertop/strip.

The non-extrudable shape has been considered a matter of design of design choice; one of ordinary skill in the art would have appreciated any shape that would aid in making and provided the intended function and purpose of the strip. The method of manufacturing such as batch cast molding would have been obvious to one of ordinary skill in the art to use any economical and facilitating method capable of making the strip with the recited elements.

Response to Arguments

Applicant's arguments filed 11/10/2003 have been fully considered but they are not persuasive. Applicant claims that his method is distinct and the non-extrudable shape is distinct; however, such processes and shape are known in the manufacturing

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and polymer arts. A patent may not teach it because of its common use known in the art. Furthermore, Nelson does not teach the strip with an extrudable shape.

Applicant argues that the examiner has not submitted a prima facie conclusion of obviousness; the examiner has submitted references discloses the claimed features and reasons why missing elements are obvious to include. The examiner shows what is recited in the claims and met by the prior art; the examiner does not have to show or teach what is merely argued by the applicant.

The secondary references were merely cited to show that the pattern on the strip is known, nothing else; again, the choice of pattern has been considered a matter of routine procedural design subject to the aesthetic appeal.

Allowable Subject Matter

Claims 35, 42-43 and 51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 703-308-1310. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

jec


Jeanette Chapman
Primary Examiner